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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,633	09/26/2003	David G. Boyer	633-061us	8084
47912	7590	04/30/2010		
Avaya DEMONT & BREYER, LLC 100 COMMONS WAY, STE 250 HOLMDEL, NJ 07733			EXAMINER MEHRPOUR, NAGHMEH	
			ART UNIT 2617	PAPER NUMBER
			NOTIFICATION DATE 04/30/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@dblaw.com

Office Action Summary	Application No. 10/672,633	Applicant(s) BOYER ET AL.	
	Examiner MELODY MEHRPOUR	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/2/10.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/3/10, 12/7/09</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed reference listed in the information Disclosure Submitted on 12/07/09, 03/03/10 have been considered by the examiner (see attached PTO-1449

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-8, 11-13, 16-24**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Agrawal et al.(US Patent 7,447,495 B2).

Art Unit: 2617

Regarding claims 1, 12, 17, Agrawal teaches an apparatus/method for delivering a voice mail message to a recipient, comprising:

a memory (col 5 lines 23-39); and

at least one processor, coupled to the memory, operative to (col 5 lines 24-39):

receive said voice mail message from a sender (col 6 lines 57-67, col 7 lines 1-2);

obtain a presence status of said sender from a presence server (col 7 lines 1-10); and

identification of at least one device where the sender is present (col 7 lines 1-10);

deliver said voice mail message to said recipient with the sender the indication of

*presence of the sender (col 6 lines 64-67, col 7 lines 1-2) **the indication of a presence***

of said sender the indication an identification of at least one sender is present (col 7 lines 1-10).

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Regarding claims 2, 18, Agrawal teaches a method/apparatus wherein said presence server extracts presence information from a plurality of presence data stores (col 7 lines 10-23).

Regarding claims 3, 19, Agrawal teaches a method/apparatus of claim 2, wherein said presence server translates said presence information to a standard format (col 7 lines 10-23).

Regarding claims 4, 20, Agrawal teaches a method/apparatus wherein said presence server determines said presence status of said sender based on one or more rules that aggregate extracted presence information (col 7 lines 22-35).

Regarding claims 5, 21, Agrawal teaches a method/apparatus wherein said recipient responds to said sender in another domain (col 7 lines 22-44).

Regarding claims 6, 22, Agrawal teaches a method/apparatus wherein said presence information indicates if the message sender can be reached at one or more indicated devices (0098, 0102).

Regarding claims 7, Agrawal teaches a method of claim 1, wherein said presence information is obtained from a user registration process (col 7 lines 1-10).

Regarding claims 8, Agrawal teaches a method of claim 1, wherein said presence information is obtained by observing activities of a user (col 8 lines 23-32).

Regarding claims 11, 16, 23, Agrawal teaches a method/apparatus wherein said recipient can respond to said sender using a non-textual form of communication (col 7 lines 2-10).

Regarding claim 13, Agrawal teaches a method of claim 12, wherein said providing step allows said recipient to respond to said sender in another domain (col 7 lines 23-50).

Regarding claim 24, Agrawal teaches an apparatus of claim 17, wherein said presence status indicates a presence status of said sender across a plurality of domains (col 7 lines 23-50).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 9-10, 14-15**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Agrawal (US Patent 7,447,495 B2) in view of Haim (US Patent 6,718,014)

Regarding claims 9, 14, Agrawal fails to teach a method/apparatus wherein said recipient can respond to said sender in real time. However, Haim teaches a method/apparatus wherein said recipient can respond to said sender in real time (col 4 lines 5-15, col 1 lines 8-14). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Haim with Agrawal modified, in order to notify the user of the incoming telephone call in

response to the telecommunication interface intercepting the incoming telephone call prior to ringing of the incoming telephone call.

Regarding claims 10, 15, Agrawal fails to teach a method wherein said recipient can respond to said sender in non-real time. Haim teaches a method wherein said recipient can respond to said sender in non-real time (col 1 lines 8-14, col 4 lines 5-15). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Haim with Agrawal, in order to notify the user of the incoming telephone call in response to the telecommunication interface intercepting the incoming telephone call prior to ringing of the incoming telephone call.

Response to Arguments

4. Applicant's arguments filed 3/3/10 have been fully considered but they are not persuasive.

In response to the applicant's that Agrawal fails to teach :

(1) receive said voice mail message from a sender

(2) deliver said voice mail message to said recipient with the sender the indication of presence of the sender.

The Examiner asserts that Agrawal teaches a method wherein user presence data can be used in various applications. For example, a buddy list can be presented to an instant messaging user to identify members of the buddy list that are currently available. Alternatively, user presence data can be configured to indicate when a user will become available, or if a user is reachable, but not currently available. **User presence data can be configured to provide alerts as users log on or off an application such as an**

instant messaging application, or designate an address for message delivery. For example, user presence could indicate that a user is available by cell phone and currently unavailable by desktop. In addition, user presence data can include cell phone status such as data or voice mode indications and applications configured to transmit messages appropriately. In a representative example, user actions based on a selected application (such as instant messaging, word processing, email, data communication, voice messaging) can be used to establish or update user activity status data (automatically). Such user activity status data is associated with network actions by the user based on actual network use by the user. Communication with other users and/or with applications can be based on user activity status data (delivering a voice mail message to the recipient with an indication of a presence of the sender).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *voice mail message and the sender's presence information are simultaneously transmitted to the receipt's terminal for display*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any responses to this action should be mailed to:

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELODY MEHRPOUR whose telephone number is 5(571)272-7913. The examiner can normally be reached on Mon-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost be reached (571) 272-7023.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Naghmeh Mehrpour/

Primary Examiner, Art Unit 2617

April 23, 2010